

801. -- 809. (RESERVED).

**Rules 810 through 819--
Informal, Negotiated Rule-making**

810. LEGISLATIVE PREFERENCE FOR NEGOTIATED RULEMAKING PROCEDURES (Rule 810).

This rule addresses informal, negotiated rule-making as described by Section 67-5220, Idaho Code. The agency, when feasible, shall proceed by informal, negotiated rule-making in order to improve the substance of proposed rules by drawing upon shared information, expertise and technical abilities possessed by the affected persons; to arrive at a consensus on the content of the rule; to expedite formal rule-making; and to lessen the likelihood that affected persons will resist enforcement or challenge the rules in court. (7-1-93)

811. PUBLICATION IN IDAHO ADMINISTRATIVE BULLETIN (Rule 811).

If the agency determines that informal, negotiated rule-making is feasible, it shall publish in the Idaho Administrative Bulletin a notice of intent to promulgate a rule. If the agency determines that informal, negotiated rule-making is not feasible, it shall explain in its notice of intent to promulgate rules why informal rule-making is not feasible and shall proceed to formal rule-making as provided in this chapter. Reasons why the agency may find that informal, negotiated rule-making is not feasible include, but are not limited to, the need for temporary rule-making, the simple nature of the proposed rule change, the lack of identifiable representatives of affected interests, or determination that affected interests are not likely to reach a consensus on a proposed rule. The determination of the agency whether to use informal, negotiated rule-making is not reviewable. (7-1-93)

812. CONTENTS OF NOTICE OF INTENT TO PROMULGATE RULES (Rule 812).

The notice of intent to promulgate rules shall announce that the agency intends to proceed by way of informal, negotiated rule-making to develop a proposed rule and shall include: (7-1-93)

01. Subject Matter. A brief, nontechnical statement of the subject matter to be addressed in the proposed rule-making. (7-1-93)

02. Authority. The statutory authority for the rule-making. (7-1-93)

03. Obtain Copy. An explanation how to obtain a preliminary draft of the proposed rules, if one is available. (7-1-93)

04. Issues. The principal issues involved and the interests which are likely to be significantly affected by the rule. (7-1-93)

05. Agency Contacts. The person(s) designated to represent the agency. (7-1-93)

06. Method Of Participation. An explanation how a person may participate in the informal, negotiated rule-making. (7-1-93)

07. Schedule. A proposed schedule for written comments or for a public meeting of interested persons, and a target date, if one exists, to complete negotiation and to publish a proposed rule for notice and comment. (7-1-93)

813. PUBLIC MEETINGS (Rule 813).

The agency may convene public meetings of interested persons to consider the matter proposed by the agency and to attempt to reach a consensus concerning a proposed rule with respect to the matter and any other matter the parties determine is relevant to the proposed rule. Person(s) representing the agency may participate in the deliberations. (7-1-93)

814. REPORTS TO THE AGENCY (Rule 814).

If the parties reach a consensus on a proposed rule, they shall transmit to the agency a report stating their consensus and, if appropriate, a draft of a proposed rule incorporating that consensus. If the parties are unable to reach a consensus on particular issues, they may transmit to the agency a report specifying those areas on which they reached

consensus and those on which they did not, together with arguments for and against positions advocated by various participants. The participants or any individual participant may also include in a report any information, recommendations, or materials considered appropriate. (7-1-93)

815. AGENCY CONSIDERATION OF REPORT (Rule 815).

The agency may accept in whole or in part or reject the consensus reached by the parties in publishing a proposed rule for notice and comment. (7-1-93)

816. -- 819. (RESERVED).

**Rules 820 through 829--
Petitions to Initiate Rule-making**

820. FORM AND CONTENTS OF PETITION TO INITIATE RULE-MAKING (Rule 820).

This rule addresses petitions to initiate rule-making as described by Section 67-5230, Idaho Code. (7-1-93)

01. Requirement. Any person petitioning for initiation of rule-making must substantially comply with this rule. (7-1-93)

02. Form And Contents. The petition must be filed with the agency and shall: (7-1-93)

a. Identify the petitioner and state the petitioner's interest(s) in the matter; (7-1-93)

b. Describe the nature of the rule or amendment to the rule urged to be promulgated and the petitioner's suggested rule or amendment; and (7-1-93)

c. Indicate the statute, order, rule, or other controlling law, and the factual allegations upon which the petitioner relies to support the proposed rule-making. Legal assertions in the petition may be accompanied by citations of cases and/or statutory provisions. (7-1-93)

821. AGENCY RESPONSE TO PETITION (Rule 821).

01. Action Of Agency. Within twenty-eight (28) days after the agency has received a petition to initiate rule-making, the agency shall initiate rule-making proceedings in accordance with Sections 67-5220 through 67-5225, Idaho Code, or deny the petition in writing, stating its reasons for the denial, unless the rulemaking authority is in a multi-member agency board or commission whose members are not full-time officers or employees of the state, in which case the multi-member board or commission shall have until the first regularly scheduled meeting of the multi-member board or commission that takes place seven (7) or more days after submission of the petition to initiate rule-making proceedings in accordance with Sections 67-5220 through 67-5225, Idaho Code, or deny the petition in writing, stating its reasons for the denial. (7-1-97)

02. Denial. If the petition is denied, the written denial shall state: (7-1-93)

a. The agency has denied your petition to initiate rule-making. This denial is a final agency action within the meaning of Section 67-5230, Idaho Code. (7-1-93)

b. Pursuant to Section 67-5270, Idaho Code, any person aggrieved by this final agency action may seek review of the denial to initiate rule-making by filing a petition in the District Court of the county in which: (7-1-93)

i. The hearing was held, (7-1-93)

ii. This final agency action was taken, (7-1-93)

iii. The party seeking review resides, or operates its principal place of business in Idaho, or (7-1-97)